

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Paul Wozniak (“Wozniak”) and Hancock Fabrics, Inc. (“Hancock”), with Wozniak and Hancock collectively referred to as the “Parties” and each individually referred to as a “Party.” Wozniak is an individual residing in California who seeks to promote awareness of exposure to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Hancock employs ten or more persons and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

Wozniak alleges that Hancock has manufactured, distributed, sold and/or offered for sale in California jars with exterior designs containing lead and certain baskets containing di(2-ethylhexyl) phthalate (“DEHP”) without the requisite Proposition 65 health hazard warnings. Lead and DEHP are listed pursuant to Proposition 65 as chemicals known to cause birth defects and other reproductive harm.

1.3 Product Description

The products that are covered by this Settlement Agreement are jars with exterior designs containing lead (“Lead Products”) and storage baskets containing DEHP (“DEHP Products”) specifically limited to the SKU numbers listed on Exhibit A to this Settlement Agreement, which were sold and/or offered for sale in California by Hancock. The Lead Products and the DEHP Products are collectively referred to herein as the “Noticed Products.” In addition to the products listed as Noticed Products on Exhibit A, this Settlement Agreement covers the following additional products listed on Exhibit A: (a) ceramic ring holders with exterior designs containing lead, specifically limited to SKU

no. 3807815; and (b) salt and pepper shakers with exterior designs containing lead, specifically limited to SKU no. 3665569, which were sold and/or offered for sale in California by Hancock (referred to herein and on Exhibit A as the “Additional Products”). Noticed Products and Additional Products are hereinafter referred to collectively as the “Products.”

1.4 Notice of Violation

On or about February 7, 2014, Wozniak served Hancock and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (“Initial Notice”), alleging that Hancock was in violation of Proposition 65 for failing to warn its customers and consumers in California that the Lead Products it sold in California exposed users to lead.

On or about August 28, 2014, Wozniak served Hancock and various public enforcement agencies with a document entitled “Supplemental 60-Day Notice of Violation” (“Supplemental Notice”), alleging that Hancock was in violation of Proposition 65 for failing to warn its customers and consumers in California that the Lead Products it sold in California exposed users to lead and the DEHP Products it sold in California exposed users to DEHP. The Initial Notice and the Supplemental Notice shall hereinafter be referred to collectively as the “Notices.”

To the best of the Parties’ knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notices.

1.5 No Admission

Hancock denies the material, factual, and legal allegations contained in the Notices and maintains that all of the products that it has sold and distributed in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Hancock of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Hancock of any fact,

finding, conclusion, issue of law, or violation of law, such being specifically denied by Hancock. Nothing in this Settlement Agreement shall prejudice, waive or impair any right, remedy, argument or defense the Parties may have in any legal proceeding. This Settlement Agreement is the product of arms-length negotiation and compromise and is accepted by the Parties for purposes of settling, compromising and resolving issues raised in the Notices. This Section shall not, however, diminish or otherwise affect Hancock's obligations, responsibilities, and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean October 1, 2014.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulated Products

Commencing on the Effective Date and continuing thereafter, Hancock shall only manufacture, distribute, ship, sell and/or offer for sale in California Reformulated Products or shall cease sales of the Products in California entirely. For purposes of this Consent Judgment, Reformulated Products are Lead Products that comply with the Lead and Cadmium Reformulation Standards set forth in Section 2.2 and DEHP Products that comply with the DEHP Reformulation Standards set forth in Section 2.3.

2.2 Lead and Cadmium Reformulation Standards

Reformulated Products shall meet or exceed the standards outlined in Sections 2.2.1, 2.2.2 and 2.2.3 below.

2.2.1 Wipe Test-Based Standard

Reformulated Products shall yield a maximum result of 1.0 microgram ("ug") residual lead or cadmium content by weight on any surface with exterior designs sampled pursuant to the NIOSH 9100 and NIOSH 7300 sampling protocols and analyzed pursuant to EPA Analytical Methods 3050B and/or 6020A(ICP/MS).

2.2.2 Content-Based Standard

Exterior designs must only utilize materials that contain a maximum of 90 parts per million (“ppm”) lead or cadmium by weight as measured either before or after the material is fired onto (or otherwise affixed to) the Product, using EPA Test Method 3050B.¹

2.2.3 Total Acetic-Acid Immersion Test-Based Standard

A Reformulated Product achieves a result of 0.99 ppm (.000099%) or less lead or cadmium after correcting for internal volume, when tested pursuant to American Society of Testing and Materials (“ASTM”) Standard Test C927-99 test method, modified for total immersion with results corrected for internal volume.

2.3 DEHP Reformulation Standards

Reformulated Products shall mean DEHP Products containing components that may be handled, touched, or mouthed by a consumer and which components yield less than or equal to 1,000 ppm DEHP when analyzed pursuant to EPA testing methodologies 3580A and 8270C, or equivalent methodologies utilized by state or federal agencies for purposes of determining DEHP content in a solid material.

3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE §25249.7(b)

In settlement of all claims referred to in this Settlement Agreement, Hancock shall pay a total of \$16,000 in civil penalties in accordance with this Section. Each penalty payment will be allocated in accordance with California Health & Safety Code §§ 25249.12(c)(1) & (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty remitted to Wozniak, as follows:

¹ If the exterior design is tested after it is affixed to a Product, the percentage of lead by weight must relate only to the decorating material and must not include any quantity attributable to any non-decorating material (e.g. the ceramicware substrate).

3.1 Initial Civil Penalty

Hancock shall pay an initial civil penalty of \$6,000 on or before the Effective Date. Hancock shall issue two separate checks to: (a) "OEHHA" in the amount of \$4,500; and (b) "Paul Wozniak, Client Trust Account" in the amount of \$1,500. All penalty payments shall be delivered to the address listed in Section 3.3.1(a) below.

3.2 Final Civil Penalty

Hancock shall pay a final civil penalty of \$10,000 on or before November 15, 2014. The final civil penalty shall be waived in its entirety, however, if, no later than November 1, 2014, an officer of Hancock provides Wozniak with written certification that, as of the date of such certification and continuing into the future, Hancock has met the reformulation standards specified in Section 2.2 above, such that all Products manufactured, distributed, shipped, sold and/or offered for sale in California by Hancock are Reformulated Products, or that Hancock has ceased sales of the product in California entirely and that, continuing into the future, will not sell or offer for sale any of the Products in California. The certification in lieu of a final civil penalty payment provided by this Section is a material term, and time is of the essence. Hancock shall issue two separate checks for its final civil penalty payments to: (a) "OEHHA" in the amount of \$7,500; and (b) "Paul Wozniak, Client Trust Account" in the amount of \$2,500.

3.3 Payment Procedures

3.3.1 Issuance of Payments. Payments shall be delivered as follows:

(a) All payments owed to Wozniak, pursuant to Sections 3.1 and 3.2, shall be delivered to the following payment address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

(b) All payments owed to OEHHA, pursuant to Sections 3.1 and

3.2, shall be delivered directly to OEHHA (Memo line “Prop 65 Penalties”) at the following addresses:

For United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

With a copy of the checks payable to OEHHA mailed to The Chanler Group at the address set forth above in 3.3.1(a), as proof of payment to OEHHA.

4. REIMBURSEMENT OF FEES AND COSTS

The Parties acknowledge that Wozniak and his counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee issue to be resolved after the material terms of the agreement had been settled. Hancock then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The Parties then attempted to (and did) reach an accord on the compensation due to Wozniak and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Hancock shall pay \$25,000 for all fees and costs incurred as a result of investigating, bringing this matter to Hancock’s attention, and negotiating a settlement in the public interest. Hancock shall issue a check payable to “The Chanler Group” and shall deliver payment on or before the Effective Date, to the address listed in Section

3.3.1(a) above. Except as expressly provided for in this Section, each Party shall bear its own attorneys' fees and costs incurred in relation to this Settlement Agreement and the released claims described in Section 5 of this Settlement Agreement.

5. RELEASES

5.1 Full and Binding Agreement

This Settlement Agreement is a full, final and binding resolution between the Parties, and each of the Parties' principals, agents, employees, representatives, officers, directors, shareholders, attorneys, accountants, licensees, licensors, insurers, subrogees, receivers, advisors, consultants, partners, principals, and servants, if any, and upon those who may assume any or all of the above described capacities subsequent to the Effective Date. The provisions of this Settlement Agreement shall inure to the benefit of each of the Parties and each of the Parties' principals, agents, employees, representatives, officers, directors, shareholders, attorneys, accountants, licensees, licensors, insurers, subrogees, receivers, advisors, consultants, partners, principals, and servants, if any.

5.2 Wozniak's Release of Hancock

In consideration of the promises and agreements herein contained and subject to them, Wozniak, acting on his own behalf and on behalf of his grantees, agents, representatives, heirs, devisees, trustees, assigns, assignors, attorneys, or any other entities in which he has an interest (collectively, the "Releasing Parties"), hereby waives all his rights to institute or participate in, directly or indirectly, any form of legal action, and hereby releases and forever discharges by this Settlement Agreement Hancock and all of its respective predecessors, successors, parents, subsidiaries, divisions, departments, and affiliates, and any and all of his past, present, and future principals, agents, employees, representatives, officers, directors, shareholders, attorneys, accountants, licensees, licensors, insurers, subrogees, receivers, advisors, consultants, partners, principals, and servants (collectively, the "Released Parties"), from all liabilities, causes of action, charges, complaints, suits, claims, obligations, costs, losses,

damages, rights, judgments, attorneys' fees, expenses, bonds, bills, penalties, fines, and all other legal responsibilities of any form whatsoever, which he had or may claim to have had, whether known or unknown, against Hancock, limited to and arising under Proposition 65, regarding the lead and/or DEHP content of the Noticed Products manufactured, distributed, sold and/or offered for sale by Hancock before the Effective Date (collectively the "Released Claims"). The Parties agree that compliance with the terms of this Settlement Agreement constitutes compliance with Proposition 65 with respect to the lead and/or DEHP content of the Noticed Products.

In further consideration of the promises and agreements herein contained and subject to them, Wozniak, in his individual capacity only, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all his rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims against the Released Parties that he may have, whether known or unknown, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses—including, but not limited to, investigation fees, expert fees, and attorneys' fees—limited to and arising under Proposition 65 with respect to lead and cadmium in the Lead Products and Additional Products and DEHP in the DEHP Products manufactured, imported, distributed, sold and/or offered for sale by Hancock before the Effective Date.

Wozniak, on his own behalf and on behalf of the Releasing Parties, further agrees, promises, and covenants that he will not, nor will any person, organization or any other entity acting on his behalf, file, charge, claim, sue, participate in, or join, any action for damages or other relief (including injunctive, declaratory, monetary or other), against the Released Parties with respect to any Released Claims which are the subject of this Settlement Agreement. The Parties agree that this Settlement Agreement may be pleaded as a full and complete defense to any and all Released Claims being released pursuant to

this Settlement Agreement. Each Party acknowledges and consents that the Settlement Agreement may be used as the basis for an injunction to halt any action, suit or other proceeding brought by either Party based upon the Released Claims.

5.3 Hancock's Release of Wozniak

Hancock, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Wozniak and his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Wozniak and his attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against the Released Parties in this matter, or with respect to the Products.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any provision of this Settlement Agreement is held by a court to be wholly or partly invalid or unenforceable, then: (i) the validity and enforceability of all provisions of this Settlement Agreement not ruled to be invalid or unenforceable shall be unaffected if the Parties mutually elect to proceed, in writing, as if such invalid or unenforceable provision had never been included in this Settlement Agreement; (ii) the effect of the ruling shall be limited to the jurisdiction of the court or other government body making the ruling; and (iii) if the ruling and/or the controlling principle of law or equity leading to the ruling is subsequently overruled, modified, or amended by legislature, judicial, or administrative action, then the provision(s) in question as originally set forth in this Settlement Agreement shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principle of law or equity.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of California and apply within California.

8. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be: (i) personally delivered; (ii) sent by first-class, registered or certified mail, return receipt requested; or (iii) sent by overnight courier on any Party by the other Party at the following addresses:

To Hancock Fabrics, Inc.:

Matthew Biggers
Hancock Fabrics, Inc.
One Fashion Way
Baldwyn, MS 38824

To Wozniak:

Proposition 65 Coordinator
The Chanler Group
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

With copy to:

Geoffrey Yost
O'Melveny & Myers LLP
Two Embarcadero Center,
28th Floor
San Francisco, CA 94111

Any Party, from time to time, may specify in writing to the other Party a change of address to which all notices and other communications shall be sent.

9. COUNTERPARTS; FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or portable document format (".pdf") signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

10. MODIFICATION

This Settlement Agreement may not be altered, amended, or otherwise changed or modified, except by written and signed agreement of the Parties.

11. NO WAIVER

No provision of this Settlement Agreement may be waived unless in writing signed by all Parties. Waiver of any one provision shall not be deemed to be a waiver of any other provision. Any failure by any Party to enforce any obligation or to exercise

any right, power, or remedy under this Settlement Agreement, at any time or for any period of time, shall not constitute or be construed as a waiver of that Party's right to enforce or exercise any provision of this Settlement Agreement.

12. INTEGRATION CLAUSE

This Settlement Agreement contains the entire agreement of the Parties and supersedes any and all prior, written or oral, agreements among them concerning the subject matter hereof. There are no representations, agreements, arrangements or understandings, oral or written, among the Parties relating to the subject matter of this Settlement Agreement that are not fully expressed herein.

13. AUTHORIZATION AND CONSULTATION WITH COUNSEL

The Parties represent and warrant that they have presented their counsel with this Settlement Agreement, that their counsel has had the opportunity to review this Settlement Agreement and that they are executing this Settlement Agreement of their own free will after having received advice from counsel regarding execution of this Settlement Agreement. The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: September 26, 2014

Date: _____

By: 
Paul Wozniak

By: _____
Steven Morgan, President
Hancock Fabrics, Inc.

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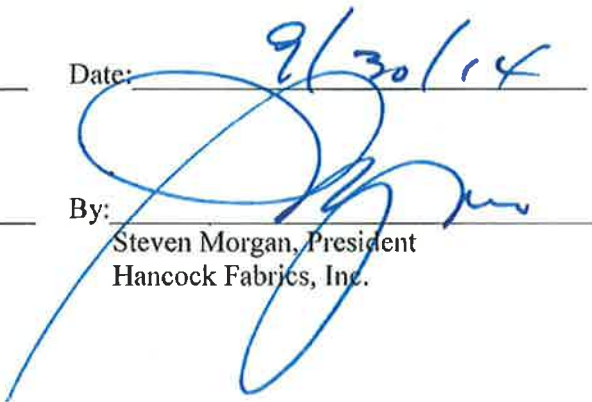
AGREED TO:

Date: _____

By: _____
Paul Wozniak

AGREED TO:

Date: 9/30/14

By: 
Steven Morgan, President
Hancock Fabrics, Inc.

MTB

EXHIBIT A - PRODUCTS

NOTICED PRODUCTS

SKU	Name	Description
3665452	SG CRM/RED RSTER CRMC SM CNT	Summer Gingham Rooster Ceramic Jar (Small)
3665460	SG CRM/RED RSTER CRMC MD CNT	Summer Gingham Rooster Ceramic Jar (Medium)
3665478	SG CRM/RED RSTER CRMC LG CNT	Summer Gingham Rooster Ceramic Jar (Large)
3407931	VERTICAL WEAVE WILLOW BASKET	4K Home Storage Basket

ADDITIONAL PRODUCTS

3665569	SG CRM/RED RSTER CRMC S/P SH	Summer Gingham Rooster Ceramic Salt & Pepper Shakers
3807815	BR CERAMIC RING HOLDER	Ceramic Ring Holder